c_8/1005

(3)

IN THE HIGH COURT OF JUDICATURE CHHATTISGARH AT BILASPUR

W.P.NO. 1570 OF 2004

PETITIONER

KHURSHID HUSSAIN,AGED ABOUT 52 YEARS,S/o LATE JAHID HUSSAIN, PARTNER OF M/s. MUJAFFER HUSSAIN M.NAJAF ALI,BHARAT PETROLEUM, RATNA BANDHA CHOWK,DHAMTARI TAHSIL AND DISTRICT,DHAMTARI(C.G.)

VERSUS

RESPONDENT

STATE OF CHHATTISGARH THROUGH THE SECRETARY MINISTRY OF REVENUE, D.K.BHAWAN,RAIPUR(C.G.)

WRIT PETITION UNDER ARTICLES 226 AND 227 OF THE CONSTITUTION OF INDIA FOR THE ISSUANCE OF WRIT OF MANDAMUS,SUITABLE ORDER OF DIRECTION IN THE NATURE OF WRIT

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

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आदेश पत्रक

मामला क्रमांक ...W.P.(S)579/... सन् 2004

..... विरुद्ध .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

16-3-2005

Mr. K.K. Mishra, Advocate with Mr. C.R. Sahu, counsel for the petitioner.

Mr. Parag Kotecha, Panel Lawyer for the State/respondent.

Heard both the counsel.

The petitioner has preferred this writ petition with a prayer that the respondent be directed to grant permanent lease deed in the prescribed form (Form 'C') of the land comprised in sheet No.6, survey No.209, plot No.6/3, admeasuring 10,000 sq. ft. i.e. 1,608 sq. meters situated near Ratna Bandha Chowk, Dhamtari, which was settled with his grand father Late Mujaffer Hussain vide order dated 14-8-1962 passed by the erstwhile Additional Collector, Raipur in Revenue Case No.449-A/37 of 1961-62 in the matter of State vs. Mujaffer Hussain of village: Dhamtari as per Section 248 (3) of the M.P. Land Revenue Code, 1959 (hereinafter referred to as 'the Code').

The case of the petitioner is that in the year 1951, the petitioner's grand father Late Mujaffer Hussain set up a petrol pump on the land bearing plot No.6/3 admeasuring 10,000 sq. ft. on the basis of a licence given by Burma Shell Company which is continuously run by the petitioner's family in the name of partners of the licensee Mujaffer Hussain M. Najaf Ali. On 14-10-1958 the Officer on Special Duty diverted the aforesaid land of sheet No.20-C, survey No.209, plot No.6/3 admeasuring 10,000 sq. ft. and recorded as Government grass land in the revenue record on which Mujaffer Hussain had encroached upon, made permanent construction and installed the petrol pump. The Officer on Special Duty made enquiry and submitted a report on 13-8-1962 to the Additional Collector, Raipur, and registered Revenue Case No.449-A/37 of 1961-62. The report was made that there is permanent structure on the land and it cannot be possible to demolish,

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

therefore, the land can be allowed to remain in possession of the person concerned and the encroachment may be dealt with under sub-section (3) of Section 248 of the Code, and this land is recorded as grass land. The land be given on permanent lease for 30 years in Form C with annual ground rent of Rs.228.12 N.P. at the rate of Rs.0.06 N.P. per rupee on premium of Rs.3,650/-. On 14-8-1962 the Additional Collector, Raipur, approved the proposal. Further case of the petitioner is that since then the aforesaid land is in possession of the petitioner and the petitioner's family is running petrol pump on that land. In the month of May, 2001, the petitioner moved an application (Annexure P-4) in the Court of Collector, Dhamtari for grant of permanent lease, as the lease Annexure P-1 granted in Form C to his grand father Late Mujaffer Hussain was not traceable. The Deputy Collector, Dhamtari on behalf of the Collector, Dhamtari sent the said application to the Tehsildar, Dhamtari vide memo dated 21-5-2001 for taking action according to the rules and regulations. The Tehsildar, Dhamtari had directed the sub-ordinate Revenue Inspector as per the provisions of Section 29 (2) of the Code, to enquire the matter and report. But the Revenue Inspector is postponing the necessary enquiry and they are not granting permanent lease in favour of the petitioner.

Learned counsel for the petitioner submitted that since 1951, the petitioner's grand father, thereafter, father and now the petitioner are in possession of the land in question and they are running the petrol pump which is of Bharat Petroleum Corporation Limited, and they are regularly paying the land rent also. The petitioner moved in the year 2001 for grant of permanent lease, but the Collector and his subordinates are not taking any decision on the request made by the petitioner, whereas, the Petroleum, Corporation is pressing hard on the petitioner for producing the lease deed

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..... **विरुद्ध** .....

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

regarding the land in question where the petrol pump is functioning, and in absence of the lease deed executed by the Collector, the petitioner is not able to furnish the said lease deed. Therefore, the Collector be directed to decide the application filed by the petitioner in accordance with law, to which learned counsel for the State/respondent has no objection.

Having heard learned counsel for the parties and having regard to the facts and circumstances of the case, the Collector, Dhamtari is directed to decide the application of the petitioner within a period of three months from the date of receipt of copy of this order, in accordance within law.

With the direction aforesaid, the petition stands disposed of.

Consequently, I.A.Nos.6232/2004 and 6233/2004 also stand disposed of.

Parties are entitled for certified copy of this order.

Sd/-
L.C.BHADOO
Judge

Soma

(पीछे देखिये)

19/10/16